

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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GUARDIAN INDUSTRIES CORP.

Plaintiff,

v.

) C.A. No.: 05-27 SLR

DELL, INC.;  
GATEWAY, INC.;  
HEWLETT-PACKARD COMPANY;  
ACER INC.;  
ACER AMERICA CORPORATION;  
AOC INTERNATIONAL;  
ENVISION PERIPHERALS, INC.;  
TPV TECHNOLOGY, LTD.;  
TPV INTERNATIONAL (USA), INC.;  
AU Optronics Corporation;  
AU Optronics Corporation America a/k/a  
AU Optronics America, Inc.;  
BENQ CORPORATION;  
BENQ AMERICA CORPORATION;  
CHUNGHWA PICTURE TUBES, LTD. a/k/a  
CHUNGHWA PICTURE TUBES COMPANY;  
TATUNG COMPANY;  
TATUNG COMPANY OF AMERICA, INC.;  
BOE HYDIS TECHNOLOGY COMPANY, LTD.;  
BOE HYDIS AMERICA INC.;  
CHI MEI OPTOELECTRONICS;  
COMPAL ELECTRONICS, INC.;  
DELTA ELECTRONICS, INC.;  
DELTA PRODUCTS CORPORATION;  
DELTA ELECTRONICS (THAILAND) PUBLIC  
COMPANY, LTD.;  
HANNSTAR DISPLAY CORPORATION;  
JEAN CO., LTD.;  
LITE-ON TECHNOLOGY CORPORATION;  
LITE-ON, INC. a/k/a LITEON TRADING USA, INC.;  
MAG TECHNOLOGY COMPANY, LTD.;  
MAG TECHNOLOGY USA, INC.;  
PROVIEW INTERNATIONAL HOLDINGS, LTD.;  
PROVIEW TECHNOLOGY, INC.;  
PROVIEW ELECTRONICS COMPANY, LTD.; and  
QUANTA DISPLAY, INC.

Defendants.

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**GUARDIAN'S REPLY TO DELL INC.'S AMENDED COUNTERCLAIMS**

Guardian Industries Corp. ("Guardian") replies to the amended counterclaims of Dell Inc. ("Dell") as follows:

**REPLY TO COUNTERCLAIMS**

112. Admitted.

113. Admitted.

114. Guardian admits that Dell's counterclaims purport to include claims for declaratory judgment of non-infringement and invalidity and that this Court has jurisdiction over the subject matter of these particular Dell counterclaims, but denies that the counterclaims have any merit and denies that Dell is entitled to any of the relief sought in its counterclaims or Prayer. Guardian denies any and all remaining averments in Paragraph 114 of Dell's counterclaim.

115. Guardian admits that venue is proper in this Court.

116. Guardian admits that there exists an actual controversy between Guardian and Dell concerning infringement of the '214, '187, '065 and '588 patents. Guardian denies any and all remaining averments in Paragraph 116 of Dell's counterclaims.

117. Paragraph 117 of Dell's counterclaims is a request for relief, and does not state any allegation that calls for a response. Dell is not entitled to a declaration from the Court that Dell has not infringed any of the '214, '187, '065 and '588 patents, either directly, contributorily, or by inducement, or either literally or under the doctrine of equivalents. Guardian denies any and all remaining averments in Paragraph 117 of Dell's counterclaims.

118. Guardian admits that there exists an actual controversy between Guardian and Dell concerning the alleged invalidity of the '214, '187, '065 and '588 patents. Guardian denies any and all remaining averments in Paragraph 118 of Dell's counterclaims.

119. Paragraph 119 of Dell's counterclaims is a request for relief, and does not state any allegation that calls for a response. Dell is not entitled to a declaration from the Court that any of the '214, '187, '065 and '588 patents are invalid for failure to comply with the provisions of the patent laws, 35 U.S.C. § 100 *et seq.*, including but not limited to one or more of 35 U.S.C. §§ 101, 102, 103, and/or 112. Guardian denies any and all remaining averments in Paragraph 119 of Dell's counterclaims.

120. Guardian denies that Dell is entitled to recover any attorneys' fees and/or costs from Guardian and denies that any of Guardian's activities provide any basis for finding in favor of Dell on the issue of whether this is an exceptional case. Guardian does contend that certain defendants' activities, including potentially Dell, provide a basis for this Court to find, in favor of Guardian, that this is an exceptional case under 35 U.S.C. § 285, and to award Guardian its attorneys' fees and its costs incurred in connection with this litigation. Guardian denies any and all remaining averments in Paragraph 120 of Dell's counterclaims.

121. Guardian admits that Paragraph 121 of Dell's counterclaims requests a trial by jury as to all fact issues in this lawsuit. Guardian further responds that Paragraph 121 of Dell's filing contains no allegation that necessitates any admission or denial from Guardian, nonetheless, to the extent any response is necessary, Guardian denies any and all remaining averments in Paragraph 121 of Dell's counterclaims.

WHEREFORE Guardian respectfully submits that Dell's counterclaims should be dismissed, with costs assessed against Dell, and seeks such further relief as the Court deems appropriate.

\* \* \* \* \*

Dated: April 26, 2005

*/s/ Richard K. Herrmann*

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 26<sup>th</sup> day of April, 2005, I electronically filed the foregoing document, **GUARDIAN'S REPLY TO DELL INC.'S AMENDED COUNTERCLAIMS**, with the Clerk of the Court using CM/ECF which will send notification of such filing to the following:

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Additionally, I hereby certify that on the 26<sup>th</sup> day of April, 2005, the foregoing document was served via email on the following non-registered participants:

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